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High Commissioner and the Secretary-General**

Joint written statement* submitted by Girls Not Brides: The Global Partnership to End Child Marriage, Forum des femmes autochtones du Cameroon (FFAC), Fundacion para Estudio Investigacion de la Mujer, non-governmental organizations in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[30 May 2023]

* Issued as received, in the language of submission only.



Gender Persecution and the Surge of Child Marriage in Afghanistan Must End

Girls Not Brides: The Global Partnership to End Child Marriage and NGOs co-sponsoring this statement express their appreciation of the work of the UN Special Rapporteur on Afghanistan and of the UN Working Group on Discrimination against Women and Girls to improve respect for human rights in Afghanistan. This statement presents an overview of our concerns relating to the rights of girls and women in Afghanistan, with a specific focus on child marriage, and outlines our recommendations to the Human Rights Council.

The scope, magnitude and severity of segregation and discrimination policies pursued by the Taliban, the current de facto authorities in Afghanistan, against girls and women in Afghanistan have created a system of gender-based persecution, which international human rights experts have categorised as gender apartheid.[1] Discrimination against girls and women is institutionalised and flows from policies dictated by, and practices entertained by, the Taliban, who have enforced a male-dominated political system.[2] Inhumane acts are committed for the purpose of establishing and maintaining this domination over girls and women.[3]

Since coming to power, the Taliban have denied girls and women their fundamental rights to education, work, and mobility, as well as their protection from domestic violence. Girls and women who oppose the Taliban's discriminatory rules have been harassed and arbitrarily detained, and women's political participation is prohibited.[4]

The de facto authorities are manifestly failing to comply with their obligations under the Convention for the Elimination of Discrimination against Women ("CEDAW") – the key global women's rights treaty which Afghanistan ratified in 2003, and which the de facto authorities thus have an obligation to respect and implement.

Severe deprivation of fundamental rights under international law, such as CEDAW, is a key element of the crime of persecution.[5] The International Criminal Court ("ICC") considers gender persecution committed against or affecting children as particularly grave given that children enjoy special recognition and protection under international law.[6]

Specifically, Girls Not Brides and partners note with great concern that the gender restrictions and the economic and humanitarian crises have led to an increase in child, early and forced marriages and unions ("CEFMU", "child marriage").[7] In certain circumstances, forced marriage has been recognised as an inhumane act constituting a crime against humanity. Recent ICC jurisprudence recognised forced marriage as a continuing crime and, as such, the ICC has criminalized not only the conduct of entering into the conjugal relationship but the entire continued forced relationship.[8]

In December 2021, the Taliban issued a "special decree" on women's rights according to which no one can force women to marry by coercion or pressure.[9] While the law under the previous Afghan government proscribed girls' marriage under the age 16,[10] the Taliban's decree does not mention a minimum age for marriage, and the decree is not enforced. According to a representative of the Taliban's Ministry of Promotion of Virtue and Prevention, under the Taliban's interpretation of Islamic law, girls can get married as soon as they reach puberty.[11]

Poverty, which has been exacerbated since the Taliban took control, in conjunction with the ban on girls' education and the loss of professional opportunities are acting as major drivers of child marriage in Afghanistan.[12]

Families facing economic hardship are incentivised to arrange a girl's marriage sooner to benefit from an incoming marriage transaction, such as dowry, debt relief and other social and economic incentives. It is reported that only in the first eight months since the Taliban took control of Afghanistan, more than 120,000 children were exchanged for some form of financial incentive.[13] Whilst families in situations of acute desperation may find that marrying off daughters early may enable certain immediate savings on limited food resources, children born to girls under the age of 15 are more likely to have low birth weight, suffer from poor nutrition, experience stunting, and are at higher risk of dying before their

fifth birthday.[14] In reality, child marriage is thus linked to higher household poverty, and perpetuates the cycle of poverty across generations.

As stated above, the de facto authorities' denial of girls' access education is directly associated with the surge in child, early and forced marriages.[15] Evidence shows that keeping girls in school is one of the best ways of preventing child marriage, and that the protective impact of education is greatest at secondary level.[16] On average, the likelihood of a girl marrying as a child is six percentage points less for every additional year she stays in secondary education.[17] The more years a girl spends in education, the less the risk of her marrying as a child.[18] The effect of girls' education is intergenerational. Research shows that girls whose mothers are educated are two times less likely to marry under age 18 than girls whose mothers are uneducated.[19]

In addition to the economic and humanitarian crises and the Taliban's imposed restrictions on women and girls, in order to secure their families' safety, many parents force their daughters into marriage with Taliban members or marry them off early to conversely avoid marriage with Taliban members.[20] Moreover, there are numerous reports of Taliban members using their influence and power to force girls and women to marry them.[21]

In light of the current devastating situation for women and girls in Afghanistan, including in relation to the surge in child marriage, the international community has a fundamental role, and an international obligation,[22] to counter and resolve the serious human rights and humanitarian crises in Afghanistan. Accountability for, and the prevention of, gender persecution requires unified commitment, action and dedicated efforts by all relevant actors.

We call on the Human Rights Council and its members and observer states at the 53rd session to:

- Denounce, in the strongest terms, gender-based discrimination and highlight that the prohibition of gender discrimination is at the core of international human rights law, and the UN system;
- Provide concrete support for Afghan women and girls facing persecution, including outside of Afghanistan in situations of displacement, refugee camps and settlement, and asylum systems;
- Acknowledge and address the particular risks that girls in Afghanistan face to being forcibly married through increased resourcing to humanitarian and aid work;
- Place respect for women's rights at the front and centre of any engagements with the de facto authorities in Afghanistan;
- Use all available political and legal avenues to end impunity for gender persecution and the systematic and institutionalised discrimination against girls and women in Afghanistan;
- Press for increased focus on responses to the humanitarian crisis in Afghanistan – including the participation of community-based and women rights organisations – to identify and respond to the needs of girls and women, and urge development partners to do the same; this needs to be accompanied by dedicated support for the work of community-based and women's rights organisations to support such responses.

AAWAAJ, Nepal; Bal Kalyan Samaj Makwanpur, Nepal; Brain Builder Youth Development Initiative (BBYDI), Nigeria; Centro de Estudios y Fortalecimiento Comunitario Mano Vuelta A.C, Mexico; Coordinadora Institucional de Promoción por los Derechos de la Niñez (CIPRODENI), Guatemala; Coordinadora por los Derechos de la Infancia y la Adolescencia (CDIA), Paraguay; Fundación Desarrollo Integral Manos Anaranjadas, Dominican Republic; Girl Up México, Mexico; Janaki Women Awareness Society (JWAS), Nepal; Juntas Por Ti y Tus Derechos (JUPTIDE), Dominican Republic; Movement for the Development of Women (MOWODE), Dominican Republic; Partenaires Contre la Pauvreté (PACOPA), Democratic Republic of Congo; Red Peruana de Mujeres con VIH, Peru SENDAS, Ecuador; YUWALAYA, Nepal, NGO(s) without consultative status, also

share the views expressed in this statement.

- [1]Karima Bennouna, 2022, “The International Obligation to Counter Gender Apartheid in Afghanistan”, Columbia Human Rights Law Review, 54:1.
- [2]Report of the Special Rapporteur on the situation of human rights in Afghanistan, 2023, A/HRC/52/84.
- [3]Amnesty International, 2022, “Afghanistan: Taliban’s ‘suffocating crackdown’ destroying lives of women and girls – new report”.
- [4]Report of the Special Rapporteur on the situation of human rights in Afghanistan, 2023, A/HRC/52/84.
- [5]Article 7(2)(g) of the Rome Statute.
- [6]ICC, 2022, Policy on the Crime of Gender Persecution, para. 8.
- [7]Report of the Special Rapporteur on the situation of human rights in Afghanistan, 2023, A/HRC/52/84, para. 24; Amnesty International, 2022, “Afghanistan: Death in slow motion”, pp.56-57.
- [8]ICC, The Prosecutor v. Dominic Ongwen, Case No. ICC-02/04-01/15, Trial Judgment, 4 February 2021.
- [9]Special Decree Issued by Amir Al-Momenin on women's rights, 3 December 2021.
- [10]Article 70 of Afghanistan’s former Civil Law.
- [11]Akmal Dawi, 4 May 2022, “Afghanistan poverty bears more child brides”, VOA News.
- [12]Amnesty International, 2022, “Afghanistan: Death in slow motion”, pp.62-63; Zahra Joya and Rukhshana Media reporters, 9 February 2023, “‘No escape’ for Afghan girls forced out of education and into early marriage”, The Guardian.
- [13]Akmal Dawi, 4 May 2022, “Afghanistan poverty bears more child brides”, VOA News.
- [14]Girls Not Brides, 2020, “SDGs and Child Marriage”, p.2.
- [15]Amnesty International, 2022, “Afghanistan: Death in slow motion”, pp.60-63.
- [16]UNICEF, 2022, “The power of education to end child marriage”, p.7.
- [17]Wodon, Q, et al., 2017, “Economic impacts of child marriage: Global synthesis brief”, The World Bank and International Center for Research on Women, p.6.
- [18]Wodon, Q, et al., 2018, “Missed opportunities: The high cost of not educating girls”, The World Bank, pp.21-23.
- [19]Erulkar A., 2013, “Early marriage, marital relations and intimate partner violence in Ethiopia”, International Perspectives on Sexual and Reproductive Health, 39(1):6–13.
- [20]Amnesty International, 2022, “Afghanistan: Death in slow motion”, pp.64-65.
- [21]Amnesty International, 2022, “Afghanistan: Death in slow motion”, pp.65-66.
- [22]Karima Bennouna, 2022, “The International Obligation to Counter Gender Apartheid in Afghanistan”, Columbia Human Rights Law Review, 54:1.